

FIRST REGULAR SESSION

# SENATE BILL NO. 111

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAAF.

Pre-filed December 3, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0661S.01I

## AN ACT

To amend chapter 195, RSMo, by adding thereto six new sections relating to a prescription drug monitoring program, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 195, RSMo, is amended by adding thereto six new sections, to be known as sections 195.450, 195.453, 195.456, 195.459, 195.465, and 195.468, to read as follows:

**195.450. 1. Sections 195.450 to 195.468 shall be known and may be cited to as the "Missouri Prescription Drug Monitoring Program Act".**

**2. As used in sections 195.450 to 195.468, the following terms shall mean:**

**(1) "Controlled substance", the same meaning given such term in section 195.010;**

**(2) "Department", the department of health and senior services;**

**(3) "Dispenser", a person who delivers a schedule II, III, or IV controlled substance to the ultimate user, but does not include:**

**(a) A hospital, as defined in section 197.020, that distributes such substances for the purpose of inpatient care or dispenses prescriptions for controlled substances at the time of discharge at such facility;**

**(b) A practitioner or other authorized person who administers such a substance; or**

**(c) A wholesale distributor of a schedule II, III, or IV controlled substance;**

**(4) "Patient", a person who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, except that "patient" shall not include a hospice patient enrolled in a Medicare-certified hospice program who has controlled substances**

21 dispensed to him or her by such hospice program;

22 (5) "Prescription drug monitoring program" or "PDMP", a  
23 program established by the department under sections 195.450 to  
24 195.468, monitoring the dispensing of all Schedule II, III, or IV  
25 controlled substances";

26 (6) "Schedule II, III, or IV controlled substance", a controlled  
27 substance that is listed in schedules II, III, or IV of the schedules  
28 provided under this chapter or the federal Controlled Substances Act,  
29 21 U.S.C. Section 812.

30 3. Notwithstanding any other law to the contrary, the provisions  
31 of sections 195.450 to 195.468 shall not apply to persons listed under  
32 chapter 340.

195.453. 1. Subject to appropriations, the department of health  
2 and senior services shall establish and maintain a program monitoring  
3 the dispensing of all schedule II, III, or IV controlled substances by all  
4 professionals licensed to dispense such substances in this state.

5 2. The department shall maintain a database of prescription  
6 controlled substances dispensed in this state using an existing data  
7 aggregation platform through the state data center within the office of  
8 administration. The department shall ensure the privacy and security  
9 of the personal information of the citizens of this state while only  
10 aggregating necessary and appropriate information related to the  
11 prescribing or dispensing of prescription schedule II, III, or IV  
12 controlled substances. The aggregated information from each dispenser  
13 data source shall remain segregated from any other data source and  
14 shall not be commingled with data from any other source. The  
15 information contained on the database shall not be entered onto any  
16 other database outside the control of the department. The information  
17 shall not be entered into the national prescription drug monitoring  
18 database.

19 3. The department is authorized to contract with any other  
20 agency of this state or any other state with a private vendor, or any  
21 state government that currently runs a prescription monitoring  
22 program for hardware or software. Any contractor shall comply with  
23 the provisions regarding confidentiality of prescription information  
24 under section 195.468.

195.456. 1. Each dispenser at the time of filling a prescription

2 controlled substance shall submit to the department by electronic  
3 means information regarding each dispensation of controlled  
4 substances included in subdivision (6) of subsection 1 of section  
5 195.450. The information submitted for each prescription shall include,  
6 but not be limited to:

7 (1) The pharmacy federal Drug Enforcement Administration  
8 (DEA) number;

9 (2) The date of the dispensation;

10 (3) As to the prescription:

11 (a) The prescription number;

12 (b) Whether the prescription is new or a refill;

13 (c) The prescriber's name, address, telephone number, and DEA  
14 or National Identifier (NPI) number;

15 (d) The date the prescription is issued by the prescriber;

16 (e) The source of payment for the prescription;

17 (4) The National Drug Code (NDC) for the drug dispensed;

18 (5) The number of days' supply of the drugs;

19 (6) The quantity, form, and strength to be dispensed;

20 (7) The patient identification number, including but not limited  
21 to, any one of the following:

22 (a) The patient's driver's license number;

23 (b) The patient's government-issued identification number; or

24 (c) The patient's insurance cardholder identification number;

25 and

26 (8) The patient's name, address, and date of birth.

27 2. Each dispenser shall submit the information in accordance  
28 with transmission standards established by the American Society for  
29 Automation in Pharmacy, or any successor organization.

30 3. The department may provide data in the PDMP database to  
31 the following persons:

32 (1) An individual who requests his or her own dispensation  
33 monitoring information in accordance with state law;

34 (2) Any state board charged with regulating a professional that  
35 has the authority to prescribe or dispense controlled substances that  
36 requests data related to a specific professional under the authority of  
37 that board;

38 (3) Local, state, and federal law enforcement or prosecutorial

39 officials, both in-state and out-of-state engaged only in the  
40 administration, investigation, or enforcement of the laws governing  
41 licit drugs based on a specific case and under a subpoena or court  
42 order;

43 (4) A judge or other judicial authority under a subpoena or court  
44 order; and

45 (5) Personnel of the department of health and senior services for  
46 the administration and enforcement of sections 195.450 to 195.468.

47 4. The department may provide data to public or private entities  
48 for statistical, research, or educational purposes after removing  
49 information that could be used to identify individual patients,  
50 prescribers, dispensers, or persons who received dispensations from  
51 dispensers.

52 5. (1) The department may issue a waiver to a dispenser that is  
53 unable to submit dispensation information by electronic means. Such  
54 waiver may permit the dispenser to submit dispensation information  
55 by telephone or other secure means, provided all information required  
56 in subsection 1 of this section is submitted in such alternative format  
57 as soon as practicable.

58 (2) The department may grant an extension to dispensers who  
59 are temporarily unable to electronically submit the dispensation  
60 information required in subsection 1 of this section in accordance with  
61 the time frame established in subsection 2 of this section due to  
62 unforeseen circumstances. In cases where an extension is granted,  
63 dispensers shall be responsible for reporting the required data in a  
64 subsequent file.

195.459. 1. No dispenser shall have access to the PDMP database  
2 established under sections 195.450 to 195.468, but shall only transmit  
3 information to be included into it. All dispensers shall have a  
4 prominently posted sign in bold letters stating "ALL CONTROLLED  
5 SUBSTANCE PRESCRIPTIONS SHALL BE REPORTED TO THE  
6 BUREAU OF NARCOTICS AND DANGEROUS DRUGS AND SCREENED  
7 FOR VIOLATIONS".

8 2. A dispenser shall wait no longer than five minutes for a reply  
9 from the department confirming that a similar prescription had not  
10 been dispensed within the most recent day's supply limit from another  
11 dispenser. After the five minute limit, the dispenser may proceed to

12 dispense the medication. If the department responds with a message  
13 that there was such a transaction within the day's supply limit, the  
14 dispenser shall not dispense the medication before resolving the issue  
15 with the patient's physician or the department, or both.

16 3. If a dispenser or an employee of the dispenser has reasonable  
17 cause to believe that the transaction would be a violation of the law,  
18 the dispenser may call or email the department on numbers or email  
19 addresses provided by the department. If after reviewing its PDMP  
20 database and the national prescription drug monitoring database, the  
21 department has reasonable cause to believe that the transaction is in  
22 violation of law, the department shall respond as rapidly to the  
23 dispenser as possible in order to prevent the transaction. If the  
24 response is not timely and the transaction is concluded before a  
25 response by the department, the dispenser may be required to assist  
26 law enforcement with an investigation.

27 4. No licensed dispenser following the provisions of sections  
28 195.450 to 195.468, shall be subject to discipline by the Missouri Board  
29 of Pharmacy or by any other state agency for acting in good faith to fill  
30 a prescription for a controlled substance, nor for acting outside of  
31 these rules in an emergency.

195.465. 1. When a dispenser electronically sends a prescription  
2 to be added to the PDMP database, the department shall electronically  
3 screen its PDMP database and the national prescription drug  
4 monitoring database to determine if the prescription may be properly  
5 dispensed and that a similar medication has not been dispensed within  
6 the allowable day's supply limits set by the department. If no concern  
7 is detected, the department shall electronically and automatically issue  
8 a communication to the dispenser that no concern was detected. If a  
9 concern is detected, a staff member of the department shall review the  
10 record and if possible, communicate in real time with the dispenser to  
11 resolve the issue. If after staff review, it appears that there is  
12 reasonable cause to believe that a person has obtained a prescription  
13 fraudulently from more than one prescriber, the department shall  
14 contact the prescribers and request copies of medical records  
15 concerning the prescriptions of concern. The prescribers shall provide  
16 the records, if possible, by fax or electronically. If after department  
17 review of the provided records, it is clear that a person has obtained

18 prescriptions under false pretenses, the entire matter shall be referred  
19 to the appropriate law enforcement or local prosecuting attorney for  
20 action.

21       2. The department shall promulgate rules setting forth the  
22 procedures and methods of implementing sections 195.450 to  
23 195.468. Any rule or portion of a rule, as that term is defined in section  
24 536.010, that is created under the authority delegated in this section  
25 shall become effective only if it complies with and is subject to all of  
26 the provisions of chapter 536 and, if applicable, section 536.028. This  
27 section and chapter 536 are nonseverable and if any of the powers  
28 vested with the general assembly pursuant to chapter 536 to review, to  
29 delay the effective date, or to disapprove and annul a rule are  
30 subsequently held unconstitutional, then the grant of rulemaking  
31 authority and any rule proposed or adopted after August 28, 2015, shall  
32 be invalid and void.

195.468. 1. The department shall annually provide to the general  
2 assembly a report as to the number of controlled substances dispensed,  
3 broken down by drug, the number of incidents of fraudulent  
4 prescriptions identified and any other pertinent information requested  
5 by the general assembly.

6       2. Beginning August 28, 2017, the department shall discard the  
7 data obtained from PDMP database one year from the date the data was  
8 obtained under sections 195.450 to 195.468.

9       3. A person authorized to have dispensation monitoring  
10 information under sections 195.450 to 195.468 who knowingly discloses  
11 such information in violation of sections 195.450 to 195.468 or who uses  
12 such information in a manner and for a purpose in violation of sections  
13 195.450 to 195.468 is guilty of a class A misdemeanor.

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